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DOL FOR ILAB/BRUMFIELD

DEPARTMENT FOR DRL/IL AND EUR/WE

E.O. 12958: N/A

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SUBJECT: CONSTITUTIONAL COURT APPROVES REFERENDUM ON KEY
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LABOR LAW PROVISION

1. SUMMARY: LABOR LAW REFORM HAS BEEN A TOP CAMPAIGN ISSUE AND A MAJOR POLITICAL PRIORITY FOR ITALIAN PRIME MINISTER BERLUSCONI, CONSUMING MUCH OF HIS AND THE GOI'S TIME THROUGH 2002. ALTHOUGH THE GOVERNMENT MADE A DEAL WITH TWO OF ITALY'S THREE MAJOR TRADE UNION CONFEDERATIONS, REFORM LEGISLATION HAS NOT YET BEEN CONSIDERED IN PARLIAMENT. NOW, THE SMALL, LEFT-WING COMMUNIST RENEWAL PARTY HAS PROPOSED A REFERENDUM THAT WOULD MOVE IN THE OPPOSITE DIRECTION. PARADOXICALLY, APPROVAL BY THE CONSTITUTIONAL COURT OF THE REFERENDUM PROPOSAL MAY PAVE THE WAY FOR GOI EFFORTS TO REFORM ITALIAN LABOR LAW. THE REFERENDUM PROPOSAL, LIKE GOI LABOR REFORM ITSELF, HAS AGAIN BROUGHT CENTER-LEFT DIVISIONS TO THE FORE. END SUMMARY.

2. THE CONSTITUTIONAL COURT HAS APPROVED A REQUEST FOR A REFERENDUM MADE BY THE LEFTIST COMMUNIST RENEWAL (RC) PARTY TO MODIFY A KEY PROVISION OF NATIONAL LABOR LAW. IF PASSED, THE REFERENDUM WOULD REINFORCE EXISTING LABOR MARKET RIGIDITIES AND COMPLICATE FURTHER PM BERLUSCONI'S EFFORTS TO INTRODUCE MORE FLEXIBILITY INTO ITALIAN LABOR MARKETS. IF AT LEAST 50 PERCENT OF ELECTORS TAKE PART IN THE REFERENDUM AND THE MAJORITY OF THEM APPROVE IT, THE REFERENDUM PROPOSAL WOULD PASS. THE GOI WILL CHOOSE A SUNDAY BETWEEN APRIL 15 AND JUNE 15 FOR THE REFERENDUM VOTE. ALTHOUGH THE LEGAL PROVISION IN QUESTION WAS A PRINCIPAL FOCAL POINT FOR POLITICAL CONFLICT IN 2002, FEW APPEAR INTERESTED IN THE REMATCH BEING PROMOTED BY THE RC. INSTEAD, WE EXPECT EFFORTS, AND DEBATE, TO FOCUS ON
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NEW LEGISLATION TO MODIFY THE PROVISION. PASSAGE OF A NEW LAW WOULD ANNUL A REFERENDUM FEW ARE INTERESTED IN CONTESTING.

3. THE PROVISION, ARTICLE 18 OF THE WORKERS' STATUTE, GOVERNS WORKERS' ENTITLEMENT TO COMPENSATION WHEN IMPROPERLY FIRED. CURRENT LAW ALLOWS EMPLOYERS AT SMALL FIRMS (FEWER THAN 15 EMPLOYEES) TO CHOOSE WHETHER TO REINSTATE OR COMPENSATE THOSE EMPLOYEES FOUND TO HAVE BEEN IMPROPERLY FIRED; AT LARGER ENTERPRISES, THE CHOICE REMAINS WITH THE WORKER. UNDER THE TERMS OF THE PROPOSED REFERENDUM, THIS 15-EMPLOYEE THRESHOLD WOULD BE ABOLISHED, EFFECTIVELY EXTENDING TO ALL EMPLOYEES THE RIGHT ENJOYED BY WORKERS AT LARGER FIRMS TO CHOOSE THE FORM OF COMPENSATION.

4. IN 2001, THE BERLUSCONI GOVERNMENT PRESENTED REFORM OF ARTICLE 18 AS A CORNERSTONE OF EMPLOYMENT POLICIES AIMED AT INTRODUCING MORE FLEXIBILITY INTO THE LABOR MARKET. THE THREE MAIN TRADE UNION CONFEDERATIONS EXPRESSED CONCERNS OVER THE PACKAGE PROPOSED AND ORGANIZED A JOINT GENERAL STRIKE IN APRIL. AFTER THE STRIKE, TWO OF THE CONFEDERATIONS, CISL AND UIL, RESUMED NEGOTIATION WITH THE MINISTER OF LABOR AND EVENTUALLY REACHED AGREEMENT FOR A FUTURE AMENDMENT OF ARTICLE 18. (UNDER THE AGREEMENT, THE GOI WOULD HAVE PROPOSED THAT, ON A TRIAL BASIS, COMPANIES CROSSING THE THRESHOLD OF 15 WORKERS BE EXEMPT FROM THE PROVISIONS OF ARTICLE 18.) BUT CGIL, THE LARGEST AND FURTHEST LEFT OF THE CONFEDERATIONS, CONSIDERED ARTICLE 18 A KEY SYMBOLIC RIGHT THAT COULD NOT BE MODIFIED. THE ENSUING CONFLICT
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OVER THE PROVISION SPLIT BOTH THE CENTER-LEFT PARTIES AND THE TRADE UNION CONFEDERATIONS. SERGIO COFFERATI, THE FORMER SECRETARY GENERAL OF CGIL, USED THE DISAGREEMENT OVER ARTICLE 18 TO GALVANIZE OPPOSITION TO THE BERLUSCONI GOVERNMENT, BREAKING THE COMMON TRADE UNION STAND. AT THE SAME TIME, COMMUNIST RENEWAL TOOK ADVANTAGE OF THE POLITICAL DEBATE TO GATHER SIGNATURES FOR A REFERENDUM DESIGNED TO EXTEND ARTICLE 18 TO ALL COMPANIES.

5. THE CONSTITUTIONAL COURT'S RECENT RULING AND A NEW GOI APPROACH HAVE TRANSFORMED THE REFORM OF ARTICLE 18

FROM A SYMBOLIC REFORM TO A PRAGMATIC ISSUE TO BE TACKLED BY THE PARLIAMENT. EVEN COFFERATI RECENTLY ACKNOWLEDGED THAT HOLDING THE REFERENDUM TODAY COULD LEAD TO A DEEP SPLIT IN THE ALREADY-FRACTURED CENTER-LEFT. 1IN THE DEMOCRATS OF THE LEFT (DS), AS WELL AS IN CGIL, THERE ARE DIFFERENT OPINIONS ON THE EXTENSION OF ARTICLE 18. PIERO FASSINO, THE LEADER OF DS, ANNOUNCED THAT HE WOULD PROPOSE SOON A REVISION OF THE LAW THAT, IF APPROVED, WOULD AUTOMATICALLY CANCEL THE REFERENDUM. THE STRATEGY OF THE DAISY PARTY (PART OF THE OLIVE TREE COALITION WITH DS), HOWEVER, WOULD BE TO HOLD THE REFERENDUM AND ENCOURAGE ITS SUPPORTERS TO VOTE NO, IN ORDER TO HIGHLIGHT ITS INTENTION NOT TO INTRODUCE NEW LEGAL RESTRICTIONS FOR SMALL COMPANIES AND, CONSEQUENTLY, ITS DISTINCTION FROM THE RADICAL LEFT, LIKE RC. THE

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| | DODE-00 | ITCE-00 | ANHR-00 | SRPP-00 | DS-00 | EB-00 | EXME-00 |
| | EUR-00 | E-00 | UTED-00 | VC-00 | FRB-00 | H-01 | TEDE-00 |
| | INR-00 | ITC-01 | LAB-01 | L-00 | VCE-00 | AC-01 | NSAE-00 |
| | NSCE-00 | OMB-01 | OPIC-01 | PA-00 | PM-00 | PRS-00 | ACE-00 |
| | P-00 | SCT-00 | SP-00 | SSO-00 | STR-00 | TEST-00 | TRSE-00 |
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GOVERNMENT IS ALSO IN FAVOR OF THE REFERENDUM, SINCE IT EXPECTS THAT THE MAJORITY OF ITALIANS WOULD VOTE AGAINST THE PROPOSED REFORM AND THAT THE REFERENDUM COULD THUS HIGHLIGHT AND EXACERBATE THE CENTER-LEFT'S INTERNAL DISARRAY.

16. COMMENT: ALTHOUGH LARGELY UNWELCOME TO THE MORE MAINSTREAM PARTIES ON THE LEFT, THE RC'S REFERENDUM PROPOSAL ULTIMATELY MAY PROVE TO BE THE PUSH NEEDED TO GET SERIOUS WORK STARTED ON LABOR MARKET REFORM AND A NEW UNEMPLOYMENT BENEFITS SCHEME PROPOSED BY THE GOI.
SEMBLER

1THE REFORM OF ART. 18 INITIALLY PROPOSED BY THE GOI WAS OPPOSED BY THE DAISY PARTY, THE DS, RC, CGIL, CISL AND UIL. SO: IT "GAVE NEW STRENGTH TO THE CENTER-LEFT" AND UNITY. TODAY IT SEEMS THAT THE REFERENDUM WOULD SPLIT THE OPPOSITION: RC, A COMPONENT OF DS AND A COMPONENT OF CGIL WOULD VOTE YES; THE DAISY, A COMPONENT OF DS AND A COMPONENT OF CGIL WOULD VOTE NO. THE STATEMENT OF COFFERATI HELPS UNDERSTANDING THE DIFFERENT POLITICAL MEANINGS OF THE REFORMS OF ART. 18.

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